

UNITED STATES CIVIL SERVICE COMMISSION  
WASHINGTON 25, D. C.

November 5, 1951

DEPARTMENTAL CIRCULAR NO. 671

TO HEADS OF DEPARTMENTS AND INDEPENDENT ESTABLISHMENTS

SUBJECT: Promotion, reduction in force, and transfer actions under Section 1310 of the Supplemental Appropriation Act, 1952 (the Whitten Amendment).

A. SECTION 1310 OF THE SUPPLEMENTAL APPROPRIATION ACT, 1952

The President has signed the Supplemental Appropriation Act, 1952. The provisions of Section 1310 of this act (the new Whitten Amendment) became effective immediately upon enactment. Section 1310 reads as follows:

"Sec. 1310. Immediately upon the enactment of this Act and until termination of the national emergency proclaimed by the President on December 16, 1950:

(a) The Civil Service Commission and the heads of the executive departments, agencies, and corporations shall make full use of their authority to require that initial appointments to positions in and outside the competitive civil service shall be made on a temporary or indefinite basis in order to prevent increases in the number of permanent personnel of the Federal Government above the total number of permanent employees existing on September 1, 1950: *Provided*, That any position vacated by a permanent employee called to military service or transferred to a national defense agency shall not be filled except on a temporary or indefinite basis. All reinstatements and promotions in the Federal civil service shall be made on a temporary or indefinite basis, and all permanent employees who are transferred from one agency to another shall retain their status as permanent employees in the agency to which transferred at the grade or basic pay level of their permanent positions in the agency from which transferred. All appointments, reinstatements, transfers, and promotions to positions subject to the Classification Act of 1949 shall be made with the condition and notice to each individual appointed, reinstated, transferred, or promoted that the classification grade of the position is subject to post-audit and correction by the appropriate departmental or agency personnel office or the Civil Service Commission. All transfers of permanent employees made on a temporary or indefinite basis since September 1, 1950, shall be changed to a permanent basis as of the effective date of this Act: *Provided*, That such employees shall retain their status as permanent employees in the agency to which transferred at the grade or basic pay level of their permanent positions in the agency from which transferred.

DC 671 (2)

(b) The Civil Service Commission shall facilitate the transfer of Federal employees from nondefense to defense activities and encourage the retention of employees in defense activities, and shall provide reemployment rights for permanent employees in the activities from which such employees are transferred.

(c) The Civil Service Commission shall make full use of its authority to prevent excessively rapid promotions in the competitive civil service and to require correction of improper allocations to higher grades of positions subject to the Classification Act of 1949, as amended. No person in any executive department or agency whose position is subject to the Classification Act of 1949, as amended, shall be promoted or transferred to a higher grade subject to such Act without having served at least one year in the next lower grade: *Provided*, That the Civil Service Commission for positions in the competitive service and the head of the employing agency for positions outside the competitive service may by regulation provide for promotions of two grades in one year (1) to positions not higher than GS-5; (2) to positions not higher than GS-11 which are in a line of work properly classified under the Classification Act of 1949 at two-grade intervals; (3) to positions in the same line of work when the employee has completed a training period under a training program approved by the Civil Service Commission for positions in the competitive service, or approved by the head of the employing agency for positions outside the competitive service; and (4) of an employee of the agency concerned when there is no position in the normal line of promotion in the grade immediately below that of the position to be filled: *Provided further*, That this subsection shall not apply to any case involving an employee who is within reach for appointment to a higher grade position on a competitive civil service register, or being advanced up to a grade level from which he had been demoted or separated because of reduction in force.

(d) From time to time, but at least annually, each executive department and agency shall (1) review all positions which since September 1, 1950, have been created or placed in a higher grade or level of difficulty and responsibility of work or in a higher basic pay level; (2) abolish all such positions which are found to be unnecessary; (3) with respect to such positions which are found to be necessary, make such adjustments as may be appropriate in the classification grades of those positions which are subject to the Classification Act of 1949, as amended, or in the basic pay levels of those positions which are subject to other pay-fixing authority. Not later than July 31 of each year each department and agency shall submit a report to the Post Office and Civil Service Committees and Appropriations Committees of the Senate and House of Representatives concerning the action taken under this paragraph, together with information comparing the total number of employees on the payroll on June 30 and their average grade and salary with similar information for the previous June 30, and each annual and supplemental budget estimate shall include a statement comparing the average grade and salary provided for in each item of appropriation or fund allowance therein with similar figures reported for the two previous periods."

B. REVISED PROMOTION REGULATION 8.109

As soon as possible the following Regulation 8.109 applicable to the competitive service will be published in the Federal Register, effective as of the date of the signing of the Act. Heads of agencies are responsible for the application of Section 1310 to positions outside the competitive service.

"Sec. 8.109 RESTRICTIONS ON PROMOTION, TRANSFER OR APPOINTMENT TO A HIGHER GRADE, AND REASSIGNMENT TO A DIFFERENT LINE OF WORK."

(a) Reassignment after competitive appointment.

No person who has been given a competitive appointment under section 2.113 or 2.115 (a) or (b) of this chapter shall be reassigned to a different line of work within three months after such appointment if the position to be filled is not higher than grade GS-5 (or equivalent) or within six months after such appointment if the position is higher than grade GS-5 (or equivalent).

(b) Actions to grade GS-5 or below (or equivalent).

- (1) No employee or former employee may be promoted, transferred to a higher grade, or appointed to a higher grade within three months after his last competitive appointment under section 2.113 or 2.115 (a) or (b), and
- (2) No employee or former employee may be advanced more than two grades above the lowest grade he held within the past twelve months under permanent or indefinite appointment. This advancement may be two grades at one time or in two separate actions.

(c) Actions to grade GS-6 or above (or equivalent).

- (1) No employee or former employee may be promoted, transferred to a higher grade, or appointed to a higher grade within twelve months after his last permanent or indefinite appointment which began his current period of continuous Federal employment, or after his last promotion, transfer to a higher grade, or appointment to a higher grade (whichever is later), and
- (2) No employee or former employee may be advanced more than one grade above the lowest grade he held within the past twelve months under permanent or indefinite appointment. However, in the following cases he may be advanced two grades above the lowest grade he held within the past twelve months when the position to be filled is:
  - (i) Not higher than grade GS-11 (or equivalent) and is in a line of work properly classified at two-grade intervals under the Classification

DC 671(4)

Act of 1949, or properly established at equivalent intervals under other wage fixing authority;  
or

- (ii) In the agency in which he is serving if there is no position in the normal line of promotion in the grade immediately below that of the position to be filled and prior approval of the Commission has been obtained.

(d) Training Agreements.

The restrictions in this section shall not apply to any person who is being promoted in accordance with a training agreement which has been approved by the Commission. Such agreements shall not provide for advancement of more than two grades (or equivalent) within any twelve-month period. For further advancement to GS-6 (or equivalent) or above, any time or grade requirement in accordance with paragraph (c) of this section shall begin with the effective date of the last promotion under the training agreement. For all grades, further promotions shall not result in advancement of more than two grades within any twelve month period.

(e) Persons demoted or separated by reduction in force.

The restrictions in this section shall not apply to any person who is being advanced to any grade or level up to that from which he had ever been demoted or separated, by any agency, because of reduction in force. Any time or grade requirement for advancement above the grade or level from which he had been separated or demoted shall begin with the effective date of his advancement to that grade.

(f) Persons within reach on registers.

The restrictions in this section shall not apply to any person who is within reach on a civil service register for competitive appointment to the position to be filled. Any time or grade requirement for further advancement shall begin with the effective date of the action permitted by this paragraph.

C. OUTSTANDING AGREEMENTS AND AUTHORITIES

All outstanding agreements and authorities covering positions under the Classification Act of 1949 which are in conflict with the new regulation quoted above are hereby amended to conform with the new regulation.

D. GENERAL EXCEPTION TO REVISED REGULATION 8.109 FOR POSITIONS NOT UNDER THE CLASSIFICATION ACT OF 1949.

The Departments of the Army, Navy, and Air Force have requested that the requirements of the revised Regulation 8.109 be modified for a 60 day period insofar as they pertain to positions not under the Classification Act of 1949. This request resulted from their desire to propose comprehensive plans governing requirements for promotion of their ungraded

employees. The Commission has approved this request. It has informed the Department of Defense that the revised Regulation 8.109 would not apply to their ungraded positions for a period of 60 days, but that the requirements contained in Regulation 8.109 in effect immediately prior to the passage of Section 1310 will continue to apply to these positions for this period.

The Commission hereby grants this same exception to all agencies. This means that the provisions contained in Regulation 8.109 in effect prior to the enactment of the new Whitten Amendment will continue to be applicable to all positions not under the Classification Act of 1949. This general exception will automatically expire 60 days from the date of this departmental circular.

E. EFFECT OF THE WHITTEN AMENDMENT ON REDUCTION  
IN FORCE PROCEDURES.

The Whitten Amendment provides that: "All transfers of permanent employees made on a temporary basis since September 1, 1950, shall be changed to a permanent basis as of the effective date of this Act: *Provided*, that such employees shall retain their status as permanent employees in the agency to which transferred at the grade or basic pay level of their permanent positions in the agency from which transferred." This means that certain employees who are now in retention preference group X must be changed to either group PA or TA. The following instructions are furnished to carry out this provision of the Act. (All retention preference groups listed below are based on the current definitions in Section 20.3 of the Regulations).

Employees who are now in retention preference group X will be affected as follows:

1. If they moved from one agency to another *without a break in service of one work day or more* at any time on or after September 1, 1950, they will be placed in retention preference group PA or TA in accordance with the following instructions:
  - (a) All employees who were in group PA in a previous agency and who are now in the same or lower grade or level than their last permanent positions in the previous agency shall be placed in group PA.
  - (b) All employees who were in group PA in a previous agency and who are now in a higher grade or level than their last permanent position in a previous agency shall be placed in group TA. Such employees shall also be considered in group PA in their new agency at the grade or level of their last permanent position in their previous agency.
  - (c) All employees who were in group TA in a previous agency and who are now in the same or lower grade or level than their last permanent position in a previous agency shall be placed in group PA.
  - (d) All employees who were in group TA in a previous agency and who are now in a higher grade or level than their last permanent position in a previous agency shall be placed in

DC 671 (6)

group TA. Such employees shall be considered in group PA in their new agency at the grade or level of their last permanent position in their previous agency.

2. If they moved from one agency to another *with a break in service of thirty calendar days or less* on or after September 1, 1950, they will remain in group X.

Employees who moved noncompetitively from one agency to another with a break in service of more than 30 days will continue to remain in group B.

Your attention is invited to the fact that any reduction in force action taken after the enactment of the new Whitten Amendment must conform to the provisions of the Act. If advance notices of proposed action have been issued prior to the passage of the Act, it will be necessary to amend these notices if the retention order is changed as a result of the new legal requirements. In this case, it is the effective date of reduction in force action that governs and not the date on which employees were notified of the pending action.

#### F. TRANSFERS OF PERMANENT EMPLOYEES

The regulations on movement of employees between agencies will be amended shortly to permit transfers of permanent employees. Until amended regulations are issued permanent employees who move to other agencies *without a break in service of one work day or more* shall be placed in retention preference groups according to the guides given above in the section on reduction in force procedures.

Inquiries from agencies in the Metropolitan area of Washington, D. C. on reduction in force procedures may be made to the Reduction in Force Unit, Personnel Classification Division, (telephone code 171, extension 3285); inquiries on promotion regulation should be addressed to the Policy and Procedures Section, Examining and Placement Division, (telephone code 171, Extension 3051). Inquiries from agencies outside the Metropolitan area of Washington, D. C. may be made to the appropriate regional or branch office of the Commission.



L. A. Moyer  
Executive Director

## WHITTEN AMENDMENT

(H. R. 5215, Sec. 1410)

Public Law 153

1310  
Sec. 1410. Immediately upon the enactment of this Act and until termination of the national emergency proclaimed by the President on December 16, 1950:

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